

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 38 – SB 124**

February 15, 2017

**SUMMARY OF BILL:** Extends the existing job protections regarding paid or unpaid leave of absence for Tennessee Army and Air National Guard, State Guard, and Civil Air Patrol to members of the Army and National Guard, State Guard, and Civil Air Patrol of any other state. Creates Class E felony for any person, firm or corporation to refuse or terminate employment of any person for the sole reason that the person is a member of the national guard of any other state.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$161,000**

**Increase Local Expenditures - \$161,000\***

**Assumptions:**

- Pursuant to Tenn. Code Ann. § 8-33-109, up to 20 days in any calendar year may be taken by employees of the state or local government for military leave with pay if such employees are, or may become, members of any reserve component of the armed forces of the United States, including members of the Tennessee Army and Air National Guard.
- Such employees may further use up to five days of sick leave in lieu of annual leave, after the twenty working days of full employment.
- The proposed legislation extends such job protections to members of the Army and Air National Guard of any other state.
- According to the Department of Human Resources (DOHR), 367 state employees took advantage of this provision in FY11-12, 376 in FY12-13, and 401 in FY13-14, equating to an average of 381 employees per year  $[(367 + 376 + 401) / 3]$ .
- It is estimated that 10 percent of those members in military service residing in Tennessee are members of an Army or Air National Guard in another state, equaling 38 (381 x 10%) individuals to whom the proposed extension would apply and who would be compensated for their leave of absence under the provisions of the bill when they would have to take a day of leave without pay under current law.
- Based on information from DOHR, the average salary including benefits for a state employee is estimated to be \$55,070. The average daily rate per employee is estimated to be \$211.81  $(\$55,070 / 260 \text{ work days})$ .

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- The recurring increase in state expenditures from the General Fund is estimated to be \$160,976 (38 employees x \$211.81 per day x 20 days).
- The total number of local government employees statewide that would take advantage of the proposed extension and the average salary for local government employees is unknown. However, it is estimated that the recurring increase in local government expenditures would be approximately equal to the recurring increase in state expenditures, or approximately \$160,976 per year.
- Pursuant to Tenn. Code. Ann. § 8-33-110, state and local government employees who are members of the Tennessee Army and Air National Guard on active duty or the Tennessee State Guard and Civil Air Patrol are entitled to an unpaid leave of absence for all periods of service during which they are engaged in the performance of duty or training in the service of this state.
- The proposed legislation extends such benefits to members of the Army and National Guard, State Guard and Civil Air Patrol of any other state.
- According to DOHR, 59 state employees used military leave without pay in FY11-12, 64 in FY12-13, and 73 in FY13-14, averaging 65 state employees per year (59 + 64 + 73 / 3).
- Assuming 10 percent of individuals from other states take advantage of this leave without pay provision, it is estimated that 7 (65 x 10%) individuals would take leave without pay.
- Any decrease in expenditures realized by the state or local government as a result of individuals taking unpaid leaves of absence will be offset by an increase in state and local government expenditures incurred in contracting for temporary labor or paying overtime to existing employees to accomplish the duties and responsibilities of individuals that are on unpaid military leave.
- Based on information provided by the Department of Correction, no persons have been incarcerated for an offense related to Tenn. Code. Ann. § 58-1-604 (Class E Felony for employment discrimination). It is reasonably assumed the expansion of the offense will not result in additional incarcerations.

## **IMPACT TO COMMERCE:**

### **NOT SIGNIFICANT**

#### **Assumptions:**

- Any impact on the businesses in the state is estimated to be not significant. All costs incurred as a result of the proposed legislation will be borne by state and local government.
- The proposed legislation is not estimated to result in a significant impact on the number of jobs in the state.

\*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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